

TENTATIVE RULINGS for CIVIL LAW and MOTION
December 14, 2015

Pursuant to Yolo County Local Rules, the following tentative rulings will become the order of the court unless, by 4:00 p.m. on the court day before the hearing, a party requests a hearing and notifies other counsel of the hearing. To request a hearing, you must contact the clerk of the department where the hearing is to be held. Copies of the tentative rulings will be posted at the entrance to the courtroom and on the Yolo Courts Website, at www.yolo.courts.ca.gov. If you are scheduled to appear and there is no tentative ruling in your case, you should appear as scheduled.

Please take note that Yolo Superior Court is now located at 1000 Main Street, in Woodland.

Telephone number for the clerk in Department Eleven: (530) 406-6843

TENTATIVE RULING

Case: Baker v. Jacobsen
Case No. CV PM 14-177
Hearing Date: December 14, 2015 Department Eleven 9:00 a.m.

Plaintiff Tammie Vernell Baker's unopposed motion to quash the deposition subpoena directed to St. Francis Hospital is **GRANTED**. (Code Civ. Proc., § 1987.1.) The declaration of Steven J. Brady establishes that defendants Dane Roger Jacobsen and Regents of the University of California: (1) failed to serve on both plaintiff and deponent the requisite Notice to Consumer (Code Civ. Proc., §§ 1985.3, subs. (b) & (c) & 2020.410, subd. (b)); (2) failed to personally serve the deposition subpoena (§ 2020.220, subd. (b)); (3) failed to afford the statutory time for compliance (§ 2020.410, subd. (c)); and (4) failed to serve the subpoena within the discovery cut-off (§ 2024.020, subd. (a)). (Brady Decl., ¶ 2.)

Monetary sanctions are **DENIED**. The notice of motion does not identify the persons and attorney(s) against whom sanctions are sought. (Code Civ. Proc., § 2023.040.) Even if it did, the declaration of Steven Brady does not support the request of \$3,525.00 in monetary sanctions and it is based on hearsay. (Brady Decl., ¶ 5.)

The notice of motion does not provide notice of this Court's tentative ruling system as required by Local Rule 11.4(b). Counsel for moving party is ordered to notify the opposing party or parties immediately of the tentative ruling system and to be available at the hearing, in person or by telephone, in the event the opposing party or parties appear without following the procedures set forth in Local Rule 11.4(a).

TENTATIVE RULING

Case: Branigan v. Raley's
Case No. CV PO 14-875
Hearing Date: December 14, 2015 Department Eleven 9:00 a.m.

Defendant Raley's motion to continue the trial is **GRANTED**. (Cal. Rules of Court, rule 3.1332.)

The parties shall appear at a case management conference on January 11, 2016, at 9:00 a.m. in Department 6 to reset the trial.

If no hearing is requested, this tentative ruling is effective immediately. No formal order pursuant to California Rule of Court 3.1312, or further notice is required.

TENTATIVE RULING

Case: **Reddy v. Mundacruz**
Case No. CV UD 15-1416
Hearing Date: **December 14, 2015** **Department Eleven** **9:00 a.m.**

Defendants Felix Mundacruz, Steve Gott, and Isabel Mundacruz’s request for judicial notice is **GRANTED**. (Evid. Code, § 452, subd. (c).)

Defendants’ demurrer to the complaint on the ground that plaintiff Melecia Reddy lacks standing to sue because she is not the real party interest is **OVERRULED**. (Code Civ. Proc., § 430.10, subd. (e).) The lease attached to the complaint states that the lease is made by and between Melecia Reddy and Felix Mundacruz. None of the authorities cited by defendants holds that Ms. Reddy may not properly sue based on her status as a party to the lease. (See e.g. Friedman, Garcia & Hagarty, California Practice Guide, Unlawful Detainer Litigation (2015), ¶ 8:29.2 [citing Code of Civil Procedure section 369(a)(4), “ ... even though technically not the “real party in interest,” an agent would have standing to sue if the lease or rental agreement was entered into in the agent's name. By authorizing the agent to enter into the lease, the landlord essentially assigns the interest in the property prior to the creation of the landlord-tenant relationship, making the agent the landlord, not simply the owner of a chose in action by assignment of an interest after the claim's accrual”].)

The notice of motion does not provide notice of this Court’s tentative ruling system as required by Local Rule 11.4(b). Counsel for moving party is ordered to notify the opposing party or parties immediately of the tentative ruling system and to be available at the hearing, in person or by telephone, in the event the opposing party or parties appear without following the procedures set forth in Local Rule 11.4(a).